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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/307,261	Applicant(s) HOOVER ET AL.	
	Examiner Nicholas D. Rosen	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 May 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-77 and 80-83* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *3* is/are allowed.

6)☒ Claim(s) *1,2,4-77 and 80-83* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *06 May 1999* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Claims 1-77, and 80-83 have been examined.

Response to Challenges of Official Notice

Applicant has challenged Examiner's various takings of official notice. In sustaining the rejections, Examiner therefore has the responsibility to justify his takings of official notice. Such justifications follow:

In rejecting claims 1 and 36, Examiner took official notice that the use of server computers is well known. Similarly, in rejecting claim 13, Examiner took official notice that the use of server computers and client computers is well known; also similarly, in rejecting claims 43, 51, 73, 77, and 80, Examiner took official notice that client-server architecture is well known. All of this is supported by the Microsoft Press Computer Dictionary, third edition, definitions of client (sense 3), client-server architecture, server, server-based application, server cluster, server error, server push-pull, and server side includes (pages 92 and 430). The relevant pages of the Microsoft Press Computer Dictionary were made of record in the previous Office action.

In rejecting claim 9, Examiner took official notice that it is well known to present images, and product images in particular, against a selected background. This is supported by Hill, U.S. Patent 5,970,471, Abstract and column 2, lines 48-65; and by Maloomian, U.S. Patent 4,261,012, column 4, lines 30-36. Both of these patents were made of record in the previous Office action, and the relevant parts referred to in the rejection of claim 9.

In rejecting claim 20, Examiner took official notice that it is well known to display images, and in particular, the images of products for sale, on Web pages. This is supported by Montulli, U.S. Patent 5,774,670, column 12, lines 11-49.

In rejecting claim 24, Examiner took official notice that it is well known to manually enter data of an intended recipient's body parameters. This is supported by Slilaty, U.S. Patent 5,163,007, (Abstract; column 3, lines 12-16; column 4, lines 27-42).

In rejecting claim 25, Examiner took official notice that it is well known to make multiple images of a person (in different poses, from different angles, etc.). This is supported by Rose, U.S. Patent 5,930,769, column 3, lines 56-62.

In rejecting claims 26, 32, and 61, Examiner took official notice that it is well known to display the prices of products displayed for sale (with a minor difference in wording regarding claim 32). This is supported by Watts (U.S. Patent 3,590,434; column 1, lines 7-12) and, with particular reference to online shopping, by Ikeda (U.S. Patent 5,937,391, column 4, lines 3-14).

In rejecting claim 30, Examiner took official notice that it is well known to delete what is unwanted and save what is wanted. This is supported by Pashley et al. (U.S. Patent 5,978,833) column 3, lines 17-26.

In rejecting claim 31, Examiner took official notice that it is well known to save what is wanted in an appropriate file. This is supported by Levine et al. (U.S. Patent 5,745,681), as mentioned in the rejection; specifically, the Abstract, and column 1, line 50, through column 2, line 47.

In rejecting claims 38 and 54, Examiner took official notice that firewalls are well known. This is supported by the Microsoft Press Computer Dictionary, third edition, definition of firewall, page 197. The relevant pages of the Microsoft Press Computer Dictionary were made of record in the previous Office action.

In rejecting claim 39, Examiner took official notice that it is well known for Internet users to have Internet Service Providers. This is supported by Schwob (U.S. Patent 5,881,234), column 1, lines 16-45, and in particular lines 16-20.

In rejecting claim 42, Examiner took official notice that that it is well known to present images, and product images in particular, against a selected background. This is supported by Hill, U.S. Patent 5,970,471, Abstract and column 2, lines 48-65. Hill's patent was of record in the previous Office action, and the relevant parts referred to in the rejection of claim 42.

In rejecting claim 57, Examiner took official notice that it is well known for kiosks to contain items for sale. This is supported by Merriam-Webster's Collegiate Dictionary, tenth edition, definition of kiosk (sense 2), page 644.

In rejecting claim 58, Examiner took official notice that communication over the Internet frequently involves the use of a Web browser computer program. This is supported by Van Hoff, U.S. Patent 5,802,530, column 1, lines 45-56.

In rejecting claim 63, Examiner took official notice that hyperlinks are a well known feature of the Internet. This is supported by Cline et al. (U.S. Patent 5,625,781), column 1, lines 11-29.

In rejecting claim 65, Examiner took official notice that it is well known to delete unwanted images and other objects. This is supported by Pashley et al. (U.S. Patent 5,978,833) column 3, lines 17-26, for the deletion of unwanted displays in general. Lau-Kee et al. (U.S. Patent 5,631,974) specifically teach deleting an image file (column 14, lines 40-61); Branson (U.S. Patent 5,740,801) teaches deleting unwanted images (column 38, lines 38-45).

In rejecting claim 76, Examiner took official notice that keyboards, touchpads, touchscreens, voice recognition software, and mice are all well-known input devices. This is supported by Kmack et al. (U.S. Patent 6,304,851), column 9, lines 18-22; and column 10, lines 4-7 and 63-66

In rejecting claim 79, Examiner took official notice that it is well known to use kiosks to make selections, etc. This is supported by Best et al. (U.S. Patent 4,839,743) column 1, lines 27-38. (The point may be mooted by the cancellation of claim 79.)

Drawings

This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-2, 4-5, 8-12, and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay (U.S. Patent 5,983,201) in view of Dias et al. (U.S. Patent 6,170,017). As per claim 1, Fay discloses a method for previewing an accessory to be worn by a person, the method comprising: providing a first image to an input device at a first location, the first image including at least a portion of a person (Abstract); transmitting data of the first image to a computer at a second location (Abstract); selecting a second image from an electronic database of images on or accessible to the computer at the second location, the second image comprising an image of an accessory to be worn on the portion of the person in the first image (Abstract); generating data of a composite image from the data of the first image and data of the second image with computer at the second location, the composite image including the accessory worn on the portion of the person (Abstract); and displaying the composite

image on an output device at the first location (Abstract; column 6, lines 4-33; the output device is inherent from what the customer is described as doing). Fay does not expressly disclose that the computer at the second location is a server computer, and Fay does not disclose that the server computer is linked to different accessory-provider computer sites respectively having different accessories for viewing, but Dias teaches a server computer linked to different merchandise-provider computer sites respectively having different items of merchandise available for information and for purchase (column 1, line 56, through column 2, line 32). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the computer at the second location be a server computer linked to different accessory-provider computer sites respectively having different accessories for viewing, for the advantages, as stated by Dias, of coordinating the authentication of a client among a set of stores, integrating information from multiple stores, and coordinating requests for group transactions from multiple stores.

As per claim 2, Fay discloses that the transmitting of data can be done over the Internet (column 8, line 63, through column 9, line 4).

As per claim 4, Fay discloses that the first image comprises the face of the person (Abstract), and that selecting the second image is performed in accordance with the person's interpupil distance (column 5, lines 17-24).

As per claim 5, Fay discloses purchasing the accessory after displaying the composite image (Abstract, final sentence; column 6, lines 34-53).

As per claim 8, Fay discloses that the accessory can comprise sunglasses (column 2, lines 50-60; column 8, lines 38-39).

As per claim 9, Fay does not disclose selecting a third image of a background setting prior to generating data of a composite image, and wherein generating data of a composite image comprises generating data of a composite image from the data of the first image, data of the second image, and data of the third image. However, official notice is taken that it is well known to present images, and product images in particular, against a selected background (see, for example, Hill, U.S. Patent 5,970,471, Abstract and column 2, lines 48-65; for another example, Maloomian, U.S. Patent 4,261,012, column 4, lines 30-36). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to select a third image of a background setting, and have generating data of a composite image comprise generating data of a composite image from data of the third image as well as first and second, for the obvious advantage of presenting the accessory in an attractive manner, which could be expected to increase sales and profits.

As per claim 10, Fay discloses that the input device can comprise a digital camera (column 4, lines 10-14; column 5, lines 8-24; column 6, lines 54-60; column 7, lines 23-29 and 46-50; column 7, line 66, through column 8, line 19).

As per claim 11, Fay discloses that the accessory can comprise cosmetics or jewelry (column 9, lines 4-8).

As per claim 12, Fay discloses that the first location can be a kiosk (column 5, lines 25-31).

As per claim 67, Fay discloses that the accessory can be a pair of prescription eyeglasses (Abstract, first sentence).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay and Dias as applied to claim 1 above, and further in view of Maloomian (U.S. Patent 4,261,012). Fay does not disclose manipulating data of the first image to modify a size of the first image to correspond to a template having a predetermined size, but Maloomian teaches this (column 3, lines 49-59). Maloomian further teaches that selecting a second image comprises using the template to select the second image (column 3, line 30, through column 4, line 7). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to manipulate data of the first image to modify a size of the first image to correspond to a template having a predetermined size, wherein selecting a second image comprises using the template to select the second image, for the advantage, as taught by Maloomian, of presenting an image enabling a user to judge what he would look like wearing a particular article.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay and Dias as applied to claim 1 above, and further in view of Maloomian (U.S. Patent 4,261,012). Fay does not disclose manipulating data of the first image to modify a size of the first image to correspond to a template having a predetermined size, but Maloomian teaches this (column 3, lines 49-59). Maloomian also teaches that generating data of a composite image comprises using data of the template to generate data of the composite image (column 2, lines 42-65; column 3, line 30, through column

4, line 7). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to manipulate data of the first image to modify a size of the first image to correspond to a template having a predetermined size, wherein generating data of the composite image comprised using data of the template to generate data of the composite image, for the advantage, as stated by Maloomian, of enabling a user to judge what he would look like wearing a particular article.

Claim 82 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay and Dias as applied to claim 1 above, and further in view of Brush, II et al. (U.S. Patent 5,884,029). Fay does not disclose that the output device is capable of displaying a three-dimensional image, but Brush teaches an output device capable of displaying a three-dimensional image (column 1, line 52, through column 2, line 21). (See also Fisher, U.S. Patent 6,331,858.) Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the output device be capable of displaying a three-dimensional image, for the obvious advantage of presenting to the user a more realistic and interesting image of his (or another person's) appearance wearing the accessory.

Claim 83 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay and Dias as applied to claim 1 above, and further in view of Brush, II et al. (U.S. Patent 5,884,029). Fay does not disclose that the output device comprises a holographic display apparatus or a virtual reality apparatus, but Brush teaches an output device comprising a virtual reality apparatus (column 1, line 52, through column 2, line 21).

Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the output device comprise a holographic display apparatus or a virtual reality apparatus, for the obvious advantage of presenting to the user a more realistic and interesting image of his (or another person's) appearance wearing the accessory.

Claims 13-16, 19-24, and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay in view of Dias. As per claim 13, Fay discloses a method for previewing an accessory, the method comprising: providing data of a first image of at least a portion of an intended recipient of the accessory to a first computer (Abstract); selecting a second image from an electronic database of images, the second image of an accessory to be worn on the portion of the intended recipient in the first image (Abstract); generating data of a composite image from the data of the first image and data of the second image with the first computer (Abstract); transmitting the data of the composite image from the first computer to a second computer (Abstract); and displaying the composite image on an output device in communication with the second computer (Abstract; column 6, lines 4-33; the output device is inherent from what the customer is described as doing). Fay does not expressly disclose that the first computer is a server computer, and Fay does not disclose that the server computer is linked to different accessory-provider computer sites respectively having different accessories for viewing, but Dias teaches a server computer linked to different merchandise-provider computer sites respectively having different items of merchandise

available for information and for purchase (column 1, line 56, through column 2, line 32). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the computer at the second location be a server computer linked to different accessory-provider computer sites respectively having different accessories for viewing, for the advantages, as stated by Dias, of coordinating the authentication of a client among a set of stores, integrating information from multiple stores, and coordinating requests for group transactions from multiple stores.

Fay does not expressly disclose that the second computer is a client computer, but official notice is taken that client-server architecture computers is well known; the computers of Fay's invention might even be considered to be a server computer and a client computer on the basis of what they do, even without the words "server" and client being used. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the second computer be a client computer, for the obvious advantage of having the transmittal and implementation of data and instructions carried out according to standard, widely used techniques.

As per claim 14, Fay discloses that the accessory can comprise sunglasses (column 2, lines 50-60; column 8, lines 38-39).

As per claim 15, Fay discloses that the output device can be located at the customer's home (column 2, lines 50-56).

As per claim 16, Fay discloses that the second (client) computer can be located at a kiosk (column 5, lines 25-31).

As per claim 19, Fay discloses that transmitting the data can comprise transmitting the data via the Internet (column 8, line 63, through column 9, line 4).

As per claim 20, Fay does not expressly disclose that displaying the composite image on the output device comprises displaying the composite image on a Web page, but Fay does disclose the use of the Internet (column 8, line 63, through column 9, line 4), and official notice is taken that it is well known to display images, and in particular, to display images of products for sale, on Web pages. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to display the composite image on a Web page, for the obvious advantage of making the image conveniently available to the increasing multitude of customers with Web access.

As per claim 21, Fay discloses that providing data of the first image comprises retrieving data of the first image from an information medium on or accessible to the first computer (column 5, lines 55-60).

As per claim 22, Fay discloses that the intended recipient of the accessory is a customer (Abstract).

As per claim 23, Fay discloses that the accessory can comprise jewelry or cosmetics (column 9, lines 4-8).

As per claim 24, Fay discloses selecting a plurality of accessory images from an electronic database of image in accordance with the data of an intended recipient's

body parameters (Abstract; column 5, lines 55-65), and displaying the plurality of accessory images (column 6, lines 4-12). Fay does not disclose manually entering data of an intended recipient's body parameters, but official notice is taken that it is well known to manually enter data of an intended recipient's body parameters. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce to have data of an intended recipient's body parameters manually entered, for the obvious advantage of making it possible to select or custom-make an accessory fitting the intended recipient without the difficulty and expense of using digital cameras and other scanning equipment, which may not be conveniently available.

As per claim 68, Fay discloses that the accessory can be a pair of prescription eyeglasses (Abstract, first sentence).

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay and Dias as applied to claim 13 above, and further in view of Maloomian (U.S. Patent 4,261,012). As per claim 17, Fay does not expressly disclose manipulating data of the first image so that the first image is modified and corresponds to a template, but Maloomian teaches this (column 3, lines 49-59). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to manipulate data of the first image so that the first image was modified and corresponded to a template, for the advantage, as stated by Maloomian, of presenting a true proportional figure composite to the viewer-consumer.

As per claim 18, Maloomian further teaches selecting plural accessory (or at least clothing) images from the database with the template and displaying the plural

images (column 3, line 30, through column 4, line 7). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to select plural accessory images from the database with the template and display the plural accessory images, for the obvious advantage of enabling the user to select among plural accessories.

Claims 25-26, 28-34, and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay in view of Hill (U.S. Patent 5,970,471). As per claim 25, Fay discloses a method for previewing an accessory, the method comprising: generating a first composite image of a person and a first accessory image (Abstract); displaying the first composite image to a customer (Abstract; column 6, lines 4-33); and generating a second composite image from a second accessory image (Abstract; column 6, lines 4-33). Fay does not disclose generating a second composite image from a second image of the person as well as a second accessory image (at least, not from a second image of the person which is distinct from the first image of the person), but official notice is taken that it is well known to make multiple images of a person (in different poses, from different angles, etc.). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to generate a second composite image from a second image of the person, for the obvious advantage of offering a variety of images, making the effect less monotonous, and therefore more likely to maintain the customer's interest, thus generating more sales.

Fay does not disclose simultaneously displaying the first and second composite images, but Hill discloses simultaneously displaying multiple images (Abstract; Figures 9 and 13; column 2, lines 24-37), and Fay discloses a composite image showing one of the accessories being worn on the person (Abstract). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to simultaneously display the first and second composite images, for the advantage, as stated by Hill, of readily enabling the customer to compare the images, and choose the accessory (or accessories) which best pleased him.

As per claim 26, Fay does not disclose displaying a first price corresponding to the first accessory image and a second price corresponding to the second accessory image, but official notice is taken that it is well known to display the prices of products displayed for sale. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to display first and second prices corresponding to the first and second accessory images, for the obvious advantage of enabling the customer to judge which accessory or accessories he was willing and able to pay for, and to arrange for payment.

As per claim 28, Fay discloses that the accessory can be a pair of sunglasses (column 2, lines 50-60; column 8, lines 38-39), implying that the images of different accessories (e.g., column 6, lines 4-17) can be images of different sunglasses.

As per claim 29, Fay discloses an image of the person, with no indication that different first and second images of the person are used (column 5, lines 7-24; column 5, line 55, through column 6, line 12).

As per claim 30, Fay discloses evaluating the displayed first and second composite images (column 6, lines 4-12). Fay does not expressly disclose deleting the less favorable composite image of the first and second composite images and saving the more favorable composite image of the first and second composite images, but official notice is taken that it is well known to delete what is unwanted and save what is wanted. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to delete the less favorable composite image of the first and second composite images for the obvious advantage of avoiding clutter on the display device; and to save the more favorable composite image of the first and second composite images, for the obvious advantage of reminding the customer of the image(s) found more favorable, and making it convenient for the customer to order the corresponding accessory or accessories.

As per claim 31, Fay does not disclose that the more favorable image is saved in a file containing favorable composite images. However, official notice is taken that it is well known to save what is wanted in an appropriate file. (See, for example, Levine et al., U.S. Patent 5,745,681.) Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the more favorable image saved in a file containing favorable composite images, for the obvious advantage of enabling the customer to review the images found to be more favorable, and conveniently order the corresponding accessory or accessories.

As per claim 32, Fay does not expressly disclose displaying the price of the first and second accessories, but official notice is taken that it is well known to display the

prices of products for sale. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to display the price of the first and second accessories, for the obvious advantage of enabling the customer to judge which accessory or accessories he was willing and able to pay for, and to arrange for payment.

As per claim 33, Fay discloses that the accessory can be a pair of sunglasses (column 2, lines 50-60; column 8, lines 38-39), implying that the first and second accessories (e.g., column 6, lines 4-17) can be different pairs of sunglasses.

As per claim 34, Fay discloses that the person is the customer (Abstract).

As per claim 69, Fay discloses that the accessory can be a pair of prescription eyeglasses (Abstract, first sentence).

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay and Hill as applied to claim 25 above. Fay does not expressly disclose displaying the first and second composite images in a cascading format, a tiled format, or an overlaid format, but Hill discloses displaying first and second images in a tiled format (Abstract; Figures 9 and 13; column 2, lines 24-37). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to display the first and second composite images in a cascading format, a tiled format, or an overlaid format, for the obvious advantage of enabling the customer to conveniently compare the images and the corresponding accessories.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay and Hill as applied to claim 25 above, and further in view of the article "Macy's Eases

Swimsuit Fear with Database" (by Janelle Brown). Fay does not disclose that the person is a model who has an appearance similar to an intended recipient of the accessory, but the article "Macy's Eases Swimsuit Fear with Database" teaches having the person be a model who has an appearance similar to an intended recipient of an accessory (or garment, if bathing suits do not qualify as accessories) (first and third paragraphs). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the person be a model with an appearance similar to an intended recipient of the accessory, for the advantage, as stated by the article "Macy's Eases Swimsuit Fear with Database," of enabling a customer to see the accessory on a model with resembling the customer, and thus judge how the accessory will look upon the customer himself or herself.

Claims 36-42 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay in view of Dias. As per claim 36, Fay discloses a system for previewing an accessory, comprising: an input device for receiving a first image, wherein the first image includes an image of at least a portion of a person (abstract; column 5, lines 8-31); a first computer operatively coupled to the input device (column 5, lines 8-31); a second computer including a first computer program for selecting data of a second image from an electronic database of images, the second image comprising an image of an accessory to be worn on the portion of the person in the first image (column 5, line 55, through column 6, line 12), and a second computer program for generating data of a composite image from data of the first image and data of the second image, wherein the

second computer is operatively connected to the first computer (column 5, line 55, through column 6, line 12); and an output device for displaying the composite image, wherein the output device is operatively coupled to the first computer (column 6, lines 4-12), wherein the input device, first computer, and the output device are at a first location and wherein the second computer is located at a second location (Abstract; column 5, lines 55-60). Fay does not expressly disclose that the second computer is a server computer, and Fay does not disclose that the server computer is linked to different accessory-provider computer sites respectively having different accessories for viewing, but Dias teaches a server computer linked to different merchandise-provider computer sites respectively having different items of merchandise available for information and for purchase (column 1, line 56, through column 2, line 32). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the second computer be a server computer linked to different accessory-provider computer sites respectively having different accessories for viewing, for the advantages, as stated by Dias, of coordinating the authentication of a client among a set of stores, integrating information from multiple stores, and coordinating requests for group transactions from multiple stores.

Fay does not expressly disclose that the first computer is a client computer, but official notice is taken that client-server architecture is well known; the first computer of Fay's invention might be considered to be a client computers, respectively, on the basis of what it does, even without the words "client" and "server" being used. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the

time of applicant's invention to have the first computer be a client computer, for the obvious advantage of having the transmittal and implementation of data and instructions carried out according to standard, widely used techniques.

As per claim 37, Fay discloses that access may take place over the Internet (column 6, lines 61-63; column 8, line 63, through column 9, line 4).

As per claim 38, Fay does not expressly disclose a firewall between the second computer and the first computer, but official notice is taken that firewalls are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have a firewall between the computers, for the obvious advantage of protecting against theft or unauthorized disclosure of private data and other damage that may be done by crackers.

As per claim 39, Fay does not expressly disclose an Internet service provider intermediate between the first and second computers, but does disclose use of the Internet (column 8, line 63, through column 9, line 4), and official notice is taken that it is well known for Internet users to have Internet service providers. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have an Internet service provider intermediate between the first and second computers, for the obvious advantage of enabling Internet users to have convenient access to the second computer.

As per claim 40, Fay discloses a computer program for processing purchases (column 6, lines 34-39), the program(s), as such, being implicit from the functions which the computer is described as carrying out.

As per claim 41, Fay discloses that the accessory can comprise sunglasses (column 2, lines 50-60; column 8, lines 38-39).

As per claim 42, Fay does not disclose that the second computer comprises a third computer program for selecting a background database from an electronic database of background images, but official notice is taken that it is well known to present images, and product images in particular, against a selected background (see, for example, Hill, U.S. Patent 5,970,471, Abstract and column 2, lines 48-65). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention include a computer program for selecting a background image from an electronic database of background images, for the obvious advantage of presenting the accessory in an attractive manner, which could be expected to increase sales and profits.

As per claim 70, Fay discloses that the accessory can be a pair of prescription eyeglasses (Abstract, first sentence).

Claims 43-50 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay in view of Dias. As per claim 43, Fay discloses a system for previewing an accessory, comprising: an information storage medium comprising a first electronic database of images of people (column 5, lines 8-24 and 55-60); a first computer including (i) a first computer program for selecting a first image from the first electronic database, the first image comprising an image of an intended recipient of an accessory (column 5, lines 5-60), (ii) a second computer program for selecting a second image

from a second electronic database, the second image comprising an image of an accessory to be worn on the intended recipient in the first image (column 5, line 60, through column 6, line 3), and (iii) a third computer program for generating data of a composite image illustrating the accessory being worn on the intended recipient from the data of the first image and data of the second image (Abstract; column 5, line 60, through column 6, line 3), wherein the first computer is operatively connected to a second computer (column 5, lines 55-60; column 6, lines 61-63); a second computer for receiving the data of the composite image, wherein the second computer is operatively connected to the first computer (column 5, lines 55-60; column 6, lines 4-17; and column 6, lines 61-63); and an output device for displaying the composite image, wherein the output device is operatively coupled to the second computer (implicit in column 6, lines 4-17). Insofar as Fay is not explicit about the computer programs, the existence of appropriate programs is held to be inherent from the descriptions of what the computer system does.

Fay does not expressly disclose that the first computer is a server computer, and Fay does not disclose that the server computer is linked to different accessory-provider computer sites respectively having different accessories for viewing, but Dias teaches a server computer linked to different merchandise-provider computer sites respectively having different items of merchandise available for information and for purchase (column 1, line 56, through column 2, line 32). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the computer at the second location be a server computer linked to different

accessory-provider computer sites respectively having different accessories for viewing, for the advantages, as stated by Dias, of coordinating the authentication of a client among a set of stores, integrating information from multiple stores, and coordinating requests for group transactions from multiple stores.

Fay does not expressly disclose that the second computer is a client computer, but official notice is taken that client-server architecture is well known; the second computer of Fay's invention might be considered to be a client computer, on the basis of what it does, even without the words "client" and "server" being used. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the second computer be a client computer, for the obvious advantage of having the transmittal and implementation of data and instructions carried out according to standard, widely used techniques.

As per claim 44, Fay discloses the use of the Internet to operatively couple computers (column 6, lines 61-63; column 8, line 63, through column 9, line 4).

As per claim 45, Fay discloses an input device operatively coupled to the second computer (column 6, lines 4-9).

As per claim 46, Fay discloses that the accessory can comprise sunglasses (column 2, lines 50-60; column 8, lines 38-39).

As per claim 47, Fay discloses a kiosk, where the second computer is at the kiosk (column 5, lines 25-31).

As per claim 48, Fay discloses a computer program for processing a purchasing transaction (column 6, lines 34-39), the program(s), as such, being implicit from the functions which the computer is described as carrying out.

As per claim 49, Fay does not expressly disclose two or more databases, each of the databases containing different accessories, but does disclose that his invention can be used for different kinds of accessories (column 9, lines 4-13). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the storage medium include two or more databases, each of the databases containing different accessories, for the obvious advantage of conveniently displaying and selling different kinds of accessories.

As per claim 50, Fay discloses that the intended recipient is a customer (Abstract).

As per claim 71, Fay discloses that the accessory can be a pair of prescription eyeglasses (Abstract, first sentence).

Claims 51-58 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay in view of Hill. As per claim 51, Fay discloses a first computer comprising (i) a first computer program for selecting data of a first accessory image from an electronic database (Abstract; column 5, lines 5-60); (ii) a second computer program for generating data of a first composite image from data of the first accessory image and data of a person's image (column 5, line 60, through column 6, line 3), (iii) a third computer program for selecting data of a second accessory image from the electronic

database (column 6, lines 4-12), and (iv) a fourth computer program for generating data of a second composite image from data of the second accessory image and data of the person's image (column 5, line 55, through column 6, line 12); a second computer operatively connected with the first computer (column 5, lines 55-60; column 6, lines 61-63); and a display device for displaying the first and second composite images to a customer for previewing accessories before purchasing (column 5, line 55, through column 6, line 12).

Fay does not expressly disclose that the first computer is a server computer, or that the second computer is a client computer, but official notice is taken that client-server architecture is well known; the first and second computers of Fay's invention might be considered to be server and client computers, respectively, on the basis of what they do, even without the words "client" and "server" being used. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the first and second computers be server and client computers, respectively, for the obvious advantage of having the transmittal and implementation of data and instructions carried out according to standard, widely used techniques.

Fay does not expressly disclose an information storage medium for saving data of the first composite image, the information storage medium being on or accessible to the server first computer, but Fay does disclose that the customer can order a pair of eyeglasses already tried on (column 6, lines 4-9 and 33-53), implying a storage medium storing a record of which eyeglasses (or other accessories) have been tried on.

Fay does not disclose that the first and second composite images are displayed to a customer for *simultaneously* previewing accessories before purchasing, but Hill discloses simultaneously displaying multiple images (Abstract; Figures 9 and 13; column 2, lines 24-37), while Fay discloses a composite image showing an accessory being worn on the person (Abstract). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to simultaneously display the first and second composite images, for the advantage, as stated by Hill, of readily enabling the customer to compare the images, and choose the accessory (or accessories) which best pleased him.

As per claim 52, Fay discloses that the computers can be operatively coupled via the Internet (column 6, lines 61-63; column 8, line 63, through column 9, line 4).

As per claim 53, Fay discloses processing the sale of an accessory by computer (column 6, lines 33-53), implying a program for doing so.

As per claim 54, Fay does not disclose a firewall between the first and second computers, but official notice is taken that firewalls are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have a firewall between the computers, for the obvious advantage of protecting against theft or unauthorized disclosure of private data and other damage that may be done by crackers.

As per claim 55, Fay discloses an input device operatively connected to the second computer (column 6, lines 4-9).

As per claim 56, Fay discloses that a second computer can be located at a kiosk (column 5, lines 25-31).

As per claim 57, Fay does not expressly disclose that the kiosk contains accessories for sale, but does disclose that a second computer may be located in any appropriate location, including on the premises of an optician or an optometrist (column 5, lines 29-31), where such accessories as eyeglasses are presumably on sale. Moreover, official notice is taken that it is well known for kiosks to contain items for sale. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the kiosk to contain accessories for sale, for the obvious advantage of enabling customers to readily obtain accessories which they had selected.

As per claim 58, Fay does not expressly disclose that the second computer comprises a Web browser computer program, but does disclose communication over the Internet (column 6, lines 61-63; column 8, line 64, through column 9, line 4). Official notice is taken that communication over the Internet frequently involves the use of a Web browser computer program. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the second computer comprise a Web browser computer program, for the obvious advantage of enabling the user to conveniently access data made available through the Web, and interact with Web pages to view accessories for sale, make purchases, etc.

As per claim 72, Fay discloses that the accessory can be a pair of prescription eyeglasses (Abstract, first sentence).

Claims 59-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay in view of Hill. As per claim 59, Fay discloses a system for assisting a customer to select a desired accessory, the system including means for generating a first composite image from an image of a person and an image of a first accessory (Abstract; column 5, line 55, through column 6, line 3); and transmitting a second composite image generated from an image of the person and an image of a second accessory (column 6, lines 4-12); wherein the first and second accessories are different (column 6, lines 4-12). Fay does not expressly disclose an electronic display screen, but this is held to be implicit from the computer-implemented transmission of images which the customer is able to view (column 6, lines 4-12). Fay does not disclose that the electronic display screen comprises, at once, a previously saved first composite image and a second composite image, but Hill teaches saving items of interest, and having screens displaying multiple items side-by-side (Abstract; column 2, lines 24-37; Figures 9 and 13), while Fay discloses a composite image showing an accessory being worn on the person (Abstract), and discloses an image of a second and different accessory, apparently in a composite image showing the second accessory as worn by the person (column 6, lines 4-12). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have a screen comprise a previously saved first composite image and a second composite image, for the advantage, as stated by Hill, of enabling a customer to readily compare the items (accessories) shown in the first and second images.

As per claim 60, Fay does not disclose that the first and second composite images are in a tiled, cascading, or overlapping format, but Hill teaches images in a tiled format (Abstract; Figures 9 and 13; column 2, lines 24-37). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to display the first and second composite images, in a tiled, cascading, or overlapping format, for the advantage, as stated by Hill, of readily enabling the customer to compare the images, and choose the accessory (or accessories) which best pleased him.

As per claim 61, Fay does not disclose that the screen comprises the prices of the first and second accessories, but official notice is taken that it is well known to display the prices of products displayed for sale. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the screen comprise the prices of the first and second accessories, for the obvious advantage of enabling the customer to judge which accessory or accessories he was willing and able to pay for, and to arrange for payment.

As per claim 62, Fay discloses that the person is an intended recipient of an accessory (Abstract).

As per claim 63, Fay does not expressly disclose a hyperlink, Fay does disclose use of the Internet (column 6, lines 61-63; column 8, line 63, through column 9, line 4), and official notice is taken that hyperlinks are a well-known feature of the Internet. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include a hyperlink, for the obvious

advantage of enabling a user to readily and conveniently access a plurality of related Web pages.

As per claim 64, Fay does not disclose that the first composite image and the second composite image are in an array of favorable composite images, but Hill teaches allowing a customer to select favorable images for an array (column 2, lines 24-37). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the first and second composite images be in an array of favorable composite images, for the advantage, as stated by Hill, of readily enabling a customer to compare favorable product items (accessories).

As per claim 65, Fay does not disclose a button for deleting less favorable composite images, but official notice is taken that it is well known to delete unwanted images and other objects. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include a button for deleting less favorable composite images, for the obvious advantage of removing clutter, and enabling the customer to more easily concentrate on more favorable composite images, and order the accessories displayed therein.

As per claim 66, Fay discloses that the accessories can be prescription eyeglasses (Abstract, first paragraph).

Claims 73-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fay in view of Dias. As per claim 73, Fay discloses a method for permitting a customer to preview a pair of sunglasses before purchasing, the method comprising: providing a

first image to an input device operatively connected to a first computer, the first image including the face of a person (Abstract; column 5, lines 8-24); transforming the first image into data of the first image with first computer (column 5, lines 8-24); transmitting data of the first image from the first computer to a second computer (column 5, lines 25-29), which may be done via the Internet (column 6, lines 61-63; column 8, line 63, through column 9, line 4); selecting a second image from an electronic database of images on or accessible to the second computer (column 5, line 60, through column 6, line 3), the second image comprising an image of a pair of sunglasses (column 2, lines 59-60); generating data of a composite image from the data of the first image and data of the second image with the second computer (column 5, line 60, through column 6, line 3), the composite image including the image of the pair of sunglasses (column 2, lines 59-60); transmitting the data of the composite image from the second computer to a first computer (column 6, lines 4-5), which may be done via the Internet (column 6, lines 61-63; column 8, line 63, through column 9, line 4); and displaying the composite image on a display device operatively coupled to the first computer such that a customer can preview the sunglasses before purchasing (column 6, lines 4-17).

Fay does not expressly disclose that the second computer is a server computer, and Fay does not disclose that the server computer is linked to different accessory-provider computer sites respectively having different accessories for viewing, but Dias teaches a server computer linked to different merchandise-provider computer sites respectively having different items of merchandise available for information and for purchase (column 1, line 56, through column 2, line 32). Hence, it would have been

obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the computer at the second location be a server computer linked to different accessory-provider computer sites respectively having different accessories for viewing, for the advantages, as stated by Dias, of coordinating the authentication of a client among a set of stores, integrating information from multiple stores, and coordinating requests for group transactions from multiple stores.

Fay does not expressly disclose that the first computer is a client computer, but official notice is taken that client-server architecture is well known; the first computer of Fay's invention might be considered to be a client computer, on the basis of what it does, even without the words "client" and "server" being used. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the first computer be a client computer, for the obvious advantage of having the transmittal and implementation of data and instructions carried out according to standard, widely used techniques.

As per claim 74, Fay discloses, after displaying the composite image, purchasing the pair of sunglasses (column 6, lines 4-9 and 34-53).

As per claim 75, Fay does not expressly disclose that selecting a second image comprises providing selection information to a second input device, but does disclose selecting a second image, which inherently requires providing selection information to a second input device (not necessarily distinct from the first input device).

As per claim 76, Fay does not expressly disclose that the second input device comprises at least one of a keyboard, a touchpad, a touchscreen, a voice recognition

apparatus, and a mouse. However, official notice is taken that keyboards, touchpads, touchscreens, voice recognition apparatuses, and mice are all well-known input devices. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the second input device comprise at least one of a keyboard, a touchpad, a touchscreen, a voice recognition apparatus, and a mouse, for the obvious advantage of enabling the selection information to be conveniently input.

Claim 77 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay in view of Dias. Fay discloses a method for permitting a customer to preview a pair of sunglasses before purchasing, the method comprising: providing a first image to an input device operatively connected to a first computer, the first image including the face of a person (Abstract; column 5, lines 8-24); transforming the first image into data of the first image with first computer (column 5, lines 8-24); transmitting data of the first image from the first computer to a second computer (column 5, lines 25-29), which may be done via the Internet (column 6, lines 61-63; column 8, line 63, through column 9, line 4); selecting a second image from an electronic database of images on or accessible to the second computer (column 5, line 60, through column 6, line 3), the second image comprising an image of a pair of sunglasses (column 2, lines 59-60); generating data of a composite image from the data of the first image and data of the second image with the second computer (Abstract; column 5, line 60, through column 6, line 3), the composite image including the image of the pair of sunglasses on the face of the person

(Abstract; column 2, lines 59-60; column 5, line 60, through column 6, line 3); transmitting the data of the composite image from the second computer to a first computer (column 6, lines 4-5), which may be done via the Internet (column 6, lines 61-63; column 8, line 63, through column 9, line 4); and displaying the composite image on a display device operatively coupled to the first computer such that a customer can preview the second image before purchasing (column 6, lines 4-17). Fay further discloses that a first computer, including all of the hardware and software needed to accomplish its tasks, can be at a kiosk (column 5, lines 25-31).

Fay does not expressly disclose that the second computer is a server computer, and Fay does not disclose that the server computer is linked to different accessory-provider computer sites respectively having different accessories for viewing, but Dias teaches a server computer linked to different merchandise-provider computer sites respectively having different items of merchandise available for information and for purchase (column 1, line 56, through column 2, line 32). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the computer at the second location be a server computer linked to different accessory-provider computer sites respectively having different accessories for viewing, for the advantages, as stated by Dias, of coordinating the authentication of a client among a set of stores, integrating information from multiple stores, and coordinating requests for group transactions from multiple stores.

Fay does not expressly disclose that the first computer is a client computer, but official notice is taken that client-server architecture is well known; the first and second

computers of Fay's invention might be considered to be client and server computers, respectively, on the basis of what they do, even without the words "client" and "server" being used. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the first computer be a client computer, for the obvious advantage of having the transmittal and implementation of data and instructions carried out according to standard, widely used techniques.

Claim 80 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay in view of Dias. Fay discloses a method for previewing an accessory at a second computer, the method comprising: providing data of a first image of at least a portion of a person to a first computer (Abstract; column 5, lines 8-29 and 55-60); selecting a second image from an electronic database of images, the second image comprising an image of an accessory to be worn on the portion of the person in the first image (column 5, line 60, through column 6, line 3), wherein the accessory is at least one of sunglasses, jewelry, handbags, and cosmetics (column 2, lines 59-60; column 9, lines 4-13); generating data of a composite image from the data of the first image and data of the second image with the first computer, the composite image comprising the accessory on the person (Abstract; column 5, line 60, through column 6, line 3); and displaying the composite image on an output device in communication with a second computer (column 4, lines 4-12).

Fay does not expressly disclose that the first computer is a server computer, and Fay does not disclose that the server computer is linked to different accessory-provider

computer sites respectively having different accessories for viewing, but Dias teaches a server computer linked to different merchandise-provider computer sites respectively having different items of merchandise available for information and for purchase (column 1, line 56, through column 2, line 32). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the computer at the second location be a server computer linked to different accessory-provider computer sites respectively having different accessories for viewing, for the advantages, as stated by Dias, of coordinating the authentication of a client among a set of stores, integrating information from multiple stores, and coordinating requests for group transactions from multiple stores.

Fay does not expressly disclose that the second computer is a client computer, but official notice is taken that client-server architecture is well known; the first and second computers of Fay's invention might be considered to be server and client computers, respectively, on the basis of what they do, even without the words "client" and "server" being used. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the second computer be a client computer, for the obvious advantage of having the transmittal and implementation of data and instructions carried out according to standard, widely used techniques.

Claim 81 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fay and Dias as applied to claim 80 above, and further in view of the article "Macy's Eases Swimsuit Fear with Database" (by Janelle Brown). Fay does not disclose that the

person is a model who has an appearance similar to the appearance of the intended recipient, but the article "Macy's Eases Swimsuit Fear with Database" teaches having the person be a model who has an appearance similar to an intended recipient of an accessory (first and third paragraphs). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to have the person be a model with an appearance similar to an intended recipient, for the advantage, as stated by the article "Macy's Eases Swimsuit Fear with Database," of enabling a customer to see the accessory on a model with an appearance resembling that of the customer, and thus judge how the accessory will look upon the customer himself or herself.

Allowable Subject Matter

Claim 3 is allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art of record, Fay (U.S. Patent 5,983,201), discloses a method for previewing a pair of sunglasses or other accessory to be worn by a person, the method comprising: providing a first image to an input device at a first location, the first image including at least a portion of a person (Abstract); transmitting data of the first image to a computer at a second location (Abstract); selecting a second image from an electronic database of images on or accessible to the computer at the second location, the second image comprising an image of an accessory to be worn on the portion of the person in the first image (Abstract), where the accessory can be sunglasses (column 2, lines 50-60;

column 8, lines 38-39); generating data of a composite image from the data of the first image and data of the second image with the computer at the second location, the composite image including the accessory worn on the portion of the person (Abstract); and displaying the composite image on an output device at the first location (Abstract; column 6, lines 4-33; the output device is inherent from what the customer is described as doing). Fay does not expressly disclose that the computer at the second location is a server computer, but client-server architecture is well known. Fay does not disclose that the method further comprises displaying a shaded image, wherein a shade of the shaded image corresponds to a shade seen by a person wearing the pair of sunglasses. Various prior art exists regarding shaded images (for example, Deering et al., U.S. Patent 6,417,861, column 1, line 63, through column 2, line 9), but no prior art of record discloses, teaches, or reasonably suggests this limitation.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments filed May 20, 2002, have been fully considered but they are not persuasive. Applicant argues that Examiner did not provide motivation to modify Fay (U.S. Patent 5,983,201), and in particular, to modify one of the computers in Fay to be a server computer. However, Examiner not only pointed out that the two computers

in Fay might be considered to be a client and server, based on what they did, despite Fay not using the terms "client" and "server," but also provided a statement of motivation, even assuming that Fay's computers do not qualify as client and server.

In response to Applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, motivation is supplied by the knowledge generally available to one of ordinary skill in the art, since client-server architecture is well-known, and it is held to be an obvious advantage to accomplish the transmission and implementation of data and instructions carried out according to standard, well-known techniques. Fay does not expressly disclose that the computers of his invention contain transistors, but an explicit limitation that "said computers contain transistors" would not make a claim otherwise anticipated by Fay patentable, even if it were established that Fay contemplated his invention being implemented on computers with vacuum tubes.

Applicant argues, with regard to claim 9, that Fay does not disclose selecting a third image of a background setting, and that no evidence of motivation was cited for modifying Fay to include such limitations. In fact, however, Examiner included a statement of motivation, "for the obvious advantage of presenting the accessory in an

attractive manner, which could be expected to increase sales and profits," and it may also be observed that Hill teaches backgrounds for product images in the context of presenting virtual catalogs of merchandise (column 2, lines 48-65), and it is implausible that Hill would recommend this to businessmen unless it were believed to be financially advantageous to present products in an attractive manner.

Applicant argues, with regard to claims 6 and 7, that Fay does not disclose manipulating data of a first image to correspond to a template having a predetermined size, and that the Office Action has not cited any evidence of motivation in the prior art to thus modify Fay; Applicant then argues similarly with regard to claims 82, 83, 20, 25, 59, and "[v]arious ones of the dependent claims." To keep down the length of this response, Examiner will not quote from his statements of motivation in rejecting each claim, but merely observe that such statements of motivation were made, and are held to be proper and justified, motivation in some cases being supplied by the explicit teachings of the prior art documents relied upon, and in other cases by the knowledge generally available to one of ordinary skill in the art.

Applicant further submits that Fay fails to teach the limitation newly added to a number of the claims, that the server computer is linked to different accessory-provider computer sites respectively having different accessories for viewing. It is true that Fay does not teach this, but other art does teach server computers linked to different merchant sites having different products available; Examiner has responded to Applicant's amendments by rejecting a number of the claims as obvious over Fay in view of the newly cited patent to Dias et al. (U.S. Patent 6,170,017), and it may be

observed that the combination is held to be obvious as motivated not only by the knowledge generally available to one of ordinary skill in the art, but by the specific teachings of Dias.

Finally, Applicant challenges Examiner's takings of official notice, and requests documentation in support of the multiple "Official Notices." Examiner has provided such documentation (it required little effort for any particular "official notice"), and has set forth, at the beginning of this Office action, which documents support which takings of official notice.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Watts, Jr. et al. (U.S. Patent 3,590,434) disclose a package forming machine. Best et al. (U.S. Patent 4,839,743) disclose an interactive video and audio controller. Slilaty (U.S. Patent 5,163,007) discloses a system for measuring custom garments. Cline et al. (U.S. Patent 5,625,781) disclose an itinerary list for interfaces. Lau-Kee et al. (U.S. Patent 5,631,974) disclose image processing. Branson (U.S. Patent 5,740,801) discloses managing information in an endoscopy system. Levine et al. (U.S. Patent 5,745,681) disclose a stateless shopping cart for the Web. Montulli (U.S. Patent 5,774,670) discloses a persistent client state in a hypertext transfer protocol based client-server system. Van Hoff (U.S. Patent 5,802,530) discloses a web document based graphical user interface. Schwob (U.S. Patent 5,881,234) discloses a method and system to provide Internet access to users via non-

home service providers. Wong et al. (U.S. Patent 5,890,175) disclose dynamic generation and display of catalogs. Rose (U.S. Patent 5,930,769) discloses a system and method for fashion shopping. Ikeda et al. (U.S. Patent 5,937,391) disclose a point-service system in an online shopping mall. Pashley et al. (U.S. Patent 5,978,833) disclose a method and apparatus for accessing and downloading information from the Internet. Cupps et al. (U.S. Patent 5,991,739) disclose an Internet online order method and apparatus. Hillson et al. (U.S. Patent 6,094,644) disclose a method and apparatus for recording the actual time used by a service which makes requests for data. Franklin et al. (U.S. Patent 6,125,352) disclose a system and method for conducting commerce over a distributed network. Alexander et al. (U.S. Patent 6,134,593) disclose an automated method for electronic software distribution. Kawabata (U.S. Patent 6,236,979) discloses a marketing system. Shkedy (U.S. Patent 6,260,024) discloses a method and apparatus for facilitating buyer-driven purchase orders on a commercial network system. Kmack et al. (U.S. Patent 6,304,851) disclose mobile data collection systems, methods, and computer program products. Deering et al. (U.S. Patent 6,417,861) disclose a graphics system with programmable sample positions.

Merriam-Webster's Collegiate Dictionary, tenth edition, discloses a definition of the term kiosk.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 703-305-0753. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and for After Final communications. Non-official/draft communications can be faxed to the examiner at 703-746-5574.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Nicholas D. Rosen
Nicholas D. Rosen
August 14, 2002

JEFFREY A. SMITH
PRIMARY EXAMINER